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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,694	11/19/2003	Walter Douglas Bauman	60,130-1779;03MRA0263	6579
26096	7590	05/19/2004		EXAMINER
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009				KRAMER, DEVON C
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/716,694	BAUMAN, WALTER DOUGLAS
	Examiner Devon C Kramer	Art Unit 3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 6-11 is/are allowed.
- 6) Claim(s) 1,2 and 5 is/are rejected.
- 7) Claim(s) 3 4 12 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

*Devon C Kramer*

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 November 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/19/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### *Drawings*

1) The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Numbers 26 and 36a-36e. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

2) Claim 12 is objected to because of the following informalities: Claim 12 line 5, "first second" should be –first, second--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4) Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "said multiple of auxiliary volumes" in lines 1-2.

There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

5) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6) Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka et al (JP 2002-89611).

In re claim 1, Tanaka et al provides a gas spring comprising a piston (5) cylinder (1); a rod (6) which moves a piston within the piston cylinder along an axis to define a working volume (2, 3); an outer cylinder (17) mounted about the piston cylinder and coaxial to the axis to define an auxiliary volume (24); and a temperature compensation valve (15) mounted within the piston-cylinder to selectively communicate the working volume with the auxiliary volume in response to a predetermined temperature (abstract).

In re claim 2, Tanaka et al provides an arrangement where the auxiliary volume extends the length of the piston-cylinder. (Figure 1)

***Allowable Subject Matter***

7) Claims 3-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

- 8) Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
- 9) Claims 6-11 are allowed.
- 10) Claim 12 would be allowed if amended to overcome the objection in paragraph 2 of this office action.

***Conclusion***

- 11) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Grundei, Wkossner, and Johnson all provide spring devices with temperature compensation valves.
- 12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C Kramer whose telephone number is 703-305-0839. The examiner can normally be reached on Mon-Fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DK

*DK*  
5-17-04